

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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**MAR 16 2001**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of )  
)  
Expedited Petition of the Illinois Commerce )  
Commission to Reset the Mandatory Expiration )  
Date of Its Temporary Waiver of 47 C.F.R. )  
Section 52.19(c)(3)(ii) to Reflect the Exhaust of the )  
847 NPA, The First of the Five Area Codes in the )  
Chicago Metropolitan Area to Reach Exhaust )

NSD File No. L-99-65

CC Docket No. 96-98

**COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association ("CTIA")<sup>1/</sup> hereby submits these comments on the Illinois Commerce Commission's ("ICC's") petition to reset the expiration date of its temporary waiver of the Commission's requirement<sup>2/</sup> that the ICC implement mandatory ten-digit dialing as an element of its overlay relief plans for five Chicago-area NPAs.<sup>3/</sup>

**INTRODUCTION**

CTIA continues to support the Commission's longstanding finding that ten-digit dialing for areas subject to NPA overlays is essential to full and fair competition. Under the circumstances described in the Petition, however, CTIA believes that extending the expiration

<sup>1/</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

<sup>2/</sup> 47 C.F.R. § 52.19(c)(3)(ii).

<sup>3/</sup> Expedited Petition of the Illinois Commerce Commission to Reset the Mandatory Expiration Date of Its Temporary Waiver of 47 C.F.R. Section 52.19(c)(3)(ii), NSD File No. L-99-65, CC Docket No. 96-98 (filed February 1, 2001) ("Petition").

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date of the ICC's waiver of the ten-digit dialing rule would be warranted, but only if the ICC implements area code relief immediately (and, in any event, no later than April 1, 2001) in the 847 NPA. While the ICC has made commendable efforts to delay the need for new area codes in Illinois, the dearth of NXX blocks in the 847 NPA has reached crisis proportions. Despite the ICC's recent decision to reclassify nine previously unassigned codes in 847 as assignable,<sup>4/</sup> wireless carriers are increasingly unable to obtain the whole codes they need to serve customers. At a certain point -- which was reached many months ago in the 847 NPA -- pooling and rationing are no longer sufficient to satisfy the Commission's mandate that carriers have access to the numbering resources required to provide service.<sup>5/</sup> Granting the ICC a further waiver of the Commission's ten-digit dialing requirement makes no sense considering that the requirement takes effect only if an area code overlay is actually implemented.

## DISCUSSION

In its previous grant of a temporary waiver to the ICC of the ten-digit dialing rule, the Commission found that there was potential for disruption in the implementation of four area code

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<sup>4/</sup> Cook County State's Attorney Motion for Stay of Commencement of Customer Education and Order Requiring NeuStar to Demonstrate that the 847 NPA is, in fact, Exhausted, Interim Order, Docket No. 01-0066 (February 15, 2001) ("ICC Interim Order"). The ICC agreed with carriers that assignment of these codes as NXXs could risk customer confusion because eight of the NXXs are also either adjacent or home NPAs, and the ninth (809) is an NPA that has been associated with fraud and is often blocked by business PBXs. Id. at 1-2. In an attempt to forestall exhaust, however, the ICC nevertheless decided to reclassify these codes as assignable. Id. at 1.

<sup>5/</sup> In the Matter of Numbering Resource Optimization, First Report and Order and Further Notice of Proposed Rulemaking, FCC 00-104, CC Docket No. 99-200, ¶ 1 (rel. March 31, 2000) ("First NRO Order"); In the Matter of Numbering Resource Optimization, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, FCC 00-429, CC Docket No. 99-200, ¶ 61 (rel. December 29, 2000) ("Second NRO Order").

overlays at one time.<sup>6/</sup> The Commission, however, limited the length of the waiver to alleviate its anticompetitive effects and established a mandatory expiration date of April 1, 2001<sup>7/</sup> based on the NANPA projection that the 847 NPA would exhaust after March 2000.<sup>8/</sup> The Commission rejected a potentially endless waiver of ten-digit dialing, emphasizing that, in the absence of ten-digit dialing, an overlay can work to the disadvantage of competitors and their customers by creating dialing disparity between certain groups of users.<sup>9/</sup> Further, the Commission noted that ten-digit dialing alleviates customer confusion because users in both the new and original NPAs are required to dial the same number of digits for all calls.<sup>10/</sup>

The ICC now contends that it has successfully delayed exhaust in the 847 NPA through number conservation measures, eliminating the need to implement an overlay and making the ten-digit dialing requirement inapplicable. It is CTIA's understanding that although the NANPA informed the ICC on January 17, 2001 that the 847 NPA was at exhaust, the ICC has voted to reject the exhaust notification letter.<sup>11/</sup> The ICC apparently believes that, notwithstanding the fact that virtually no whole codes remain in the NPA, it can avoid area code relief indefinitely through pooling, rationing, and other extreme measures. Moreover, recent legislation introduced

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<sup>6/</sup> Illinois Commerce Commission Petition for Expedited Temporary Waiver of 47 CFR Section 52.19(c)(3)(ii), Order, NSD File No. L-99-65, CC Docket No. 96-98, ¶ 13 (rel. March 2, 2000) ("Order").

<sup>7/</sup> Order at ¶ 1.

<sup>8/</sup> Petition at 4.

<sup>9/</sup> Order at ¶ 7; Second NRO Order at ¶ 70; Implementation of Local Competition Provisions in the Telecommunications Act of 1996, Second Report and Order, CC Docket No. 96-98, ¶ 287 (rel. August 8, 1996) ("Second Local Competition Order").

<sup>10/</sup> Second Local Competition Order at ¶ 287.

<sup>11/</sup> ICC Interim Order at 2.

in Illinois raises concerns that implementation of an overlay or geographic split might not be on the agenda for some time to come.<sup>12/</sup>

In light of these issues, the Commission should grant the ICC's request for waiver of the ten-digit dialing rule only on the condition that the ICC starts assigning codes out of the new overlay code in the 847 NPA no later than April 1, 2001 and that mandatory ten-digit dialing commence no later than April 1, 2002. The Commission has consistently recognized the need for the deployment of new area codes as an NPA reaches exhaust (not after the NPA has exhausted) and, in this regard, it recently conditioned its grant of pooling authority to the New Jersey Board of Public Utilities on prior implementation by that commission of area code relief.<sup>13/</sup> The Commission found this condition necessary to ensure that non-LNP capable carriers have access to the numbering resources they need to serve customers.<sup>14/</sup> Similarly, the Commission has refused to give several state commissions the authority to order code rationing before adoption of an area code relief plan on the ground that rationing should occur only when it is clear that NXXs will run out during the period between adoption of the relief plan and its

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<sup>12/</sup> Illinois State Senate Bill 92-SB-0313, available at <http://www.legis.state.il.us/legisnet/legisnet92/sbggroups/sb/920SB0313LV.html>. This bill provides in pertinent part that: "No new area code that will overlay or divide an existing area code shall be implemented until 90% of the available telephone numbers in the existing area code are assigned to consumers." Id. Under this standard, an NPA would be far past exhaust before area code relief was even contemplated.

<sup>13/</sup> See New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Number Conservation Measures, NSD File No. L-00-95, CC Docket No. 99-200, ¶¶ 28-30 (rel. February 14, 2001).

<sup>14/</sup> As the Commission has repeatedly held, use of number conservation measures and rationing does not eliminate the need for state commissions to implement area code relief in NPAs approaching exhaust. See Second NRO Order at ¶¶ 52, 61.

actual implementation.<sup>15/</sup> Like these other cases, continued waiver of the ten-digit dialing rule for the ICC should not be provided if the ICC does not demonstrate its intent to comply with the limitations on the numbering authority it has been delegated by the Commission.

### CONCLUSION

For the foregoing reasons, CTIA requests that the Commission grant the ICC's petition to reset the mandatory expiration date of its temporary waiver of the Commission's ten-digit dialing rule only if the ICC implements immediate area code relief in the 847 NPA.

Respectfully submitted,

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<sup>15/</sup> See, e.g., Petition of the Public Service Commission of West Virginia for Additional Delegated Authority To Implement Number Conservation Measures, NSD File No. L-01-274, ¶ 39 (rel. March 14, 2001).

## **Certificate of Service**

I, Angela Collins, hereby certify that the foregoing Comments of the Cellular Telecommunications & Internet Association were served via hand delivery on March 16, 2001 on the following:

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